



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC
Docket No: 08701-98
21 October 1999

YNZ [REDACTED] USN
[REDACTED]
[REDACTED]
[REDACTED]

Dear Petty Officer [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 21 October 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Navy Personnel Command dated 6 April and 7 June 1999, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinions. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

3701-98
5420
NPC-832C
6 Apr 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION
OF NAVAL RECORDS (BCNR)

Via: NPC/BCNR Coordinator (NPC-00ZCB)

Subj: YN2 [REDACTED] USN [REDACTED]

Encl: (1) BCNR File 08701-98
(2) Petitioner's Microfiche Record

1. The petition and naval records of subject petitioner have been reviewed relative to his request for removal of derogatory material.

2. The review indicates that the petitioner was, in fact, operating an automobile while under the influence of alcohol, had an accident, injuries occurred, and property was destroyed. The evaluation dated 31 Mar 94 basically makes reference to only those facts and says nothing about any civil, courts-martial, or NJP proceedings. Unless petitioner can convince us that the accident did not actually occur, it is irrelevant and immaterial that any courts-martial charges were dismissed. Therefore, favorable action on this petition is not recommended.

[REDACTED]
Technical Advisor
To the Head, Enlisted
Performance Branch

(3) A0 3



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

08701-98

1616
PERS-311
7 JUN 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00XCB)

Subj: YN2 [REDACTED] USN, [REDACTED]

Ref: (a) BUPERSINST 1616.9A

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests removal of his performance report for the period 1 April 1993 to 31 March 1994.

2. Based on our review of the material provided, we find the following:

a. A review of the member's digitized record revealed the report in question to on file. The member signed the report indicating his desire to submit a statement. The statement to the report is on file.

b. The member feels that per reference (a), Chapter 2, the evaluation report for the period 1 April 1993 to 31 March 1994 is unjust. The member feels that the reporting senior should not have commented on his misconduct, since the charge of Drunken or Reckless Driving was dismissed.

c. The report represents the judgment and appraisal responsibility of the reporting senior for a specific period of time. It is not required to be consistent with previous or subsequent reports, and is not routinely open to challenge.

d. Per reference (a), Chapter 2, page 2-19, comments may be included on misconduct whenever the facts are clearly established to the reporting senior's satisfaction. We feel the comments in block 56 are appropriate since it does not comment on civil, court-martial, or Non Judicial Punishment (NJP) proceedings.

e. The member does not prove the report to be unjust or in error.

Subj: YNC [REDACTED] U [REDACTED]

3. We recommend retention of the report as written.

[REDACTED]

Head, Performance
Evaluation Branch